

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5774-2024

Date of Decision: February 13, 2024

SURINDER SINGH @ SURENDERPetitioner
Versus
STATE OF HARYANA AND ANOTHERRespondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. R.S. Dhull, Advocate for the petitioner.
Mr. Chetan Sharma, DAG, Haryana.

HARKESH MANUJA, J. (ORAL)

By way of present petition filed under Section 482 CrPC, prayer has been made for setting aside the order dated 23.12.2021 passed by the Court below whereby, the petitioner was declared as proclaimed person with a further prayer for quashing of FIR No.47 dated 14.02.2022 registered under Section 174-A IPC, P.S. Civil Lines, Jind registered in pursuance thereof.

2. Having been implicated in a complaint under Section 138 of Negotiable Instruments Act, 1881, the petitioner was summoned by the Court concerned and later the petitioner furnished his bail bonds/surety bonds. However, later, the petitioner on account of his non-appearance was declared as proclaimed person vide order dated 23.12.2021 followed by registration of FIR bearing No.47 dated 14.02.2022 under Section 174-A IPC.

3. Impugning the aforesaid, learned counsel for the petitioner submits that the order dated 23.12.2021, whereby the petitioner was declared as proclaimed person was passed in a mechanical manner as even the date for effecting of proclamation was not mentioned correctly.

Learned counsel also submits that parties have already entered into a settlement and even the main complaint filed at the instance of respondent No.2 stands withdrawn vide order dated 20.12.2023 and thus, no useful purpose is going to be served with continuation of proceedings arising out of FIR No.47 registered under Section 174-A IPC.

4. On the other hand, learned State counsel vehemently opposes the prayer made herein while submitting that the petitioner was earlier also declared as proclaimed person though, he later submitted himself to the jurisdiction of the Court concerned, however, he again absconded himself and was declared as proclaimed person. Thus, he has no respect for the process of law and accordingly, the impugned order as well as FIR in question does not warrant any interference.

5. I have heard learned counsel for the parties and gone through the paper-book.

6. A perusal of order dated 23.12.2021 vide which the petitioner was declared as proclaimed person shows that the proclamation was effected on 01.11.2021, however, the record reflects otherwise as the proclamation itself was ordered on 01.11.2021. The order dated 01.11.2021 passed by Judicial Magistrate First Class, Jind is reproduced hereunder for reference:-

“Non-bailable warrant issued against accused received back with the report that accused Surender was not found at home however, his son told that his father was absconding from several days and they are not aware about his father. From the reports on warrants, this Court is of the opinion that accused is intentionally avoiding the arrest and absconding himself. So, the warrants could not be executed against him in ordinary process. Let presence of accused Surender be

secured through Proclamation under Section 82(1) Cr.P.C be issued for 23.12.2021.
The requisite of 82(2) Cr. P. C. be complied with.

Executing official is directed to affix the proclamation/carry out the proceedings of proclamation within 10 days from today. Concerned Ahlmad is directed to make an endorsement to this effect on the proclamation itself.

Notice issued to his surety not received back in any form. Let, fresh notice be issued to his surety for date fixed.”

7. Accordingly, it is apparent that the entire approach of the Court below while passing the order dated 23.12.2021 was totally mechanical as 01.11.2022 was never the date on which the proclamation was effected rather, it was the date when the proclamation was in fact ordered . Considering the fact that Section 82 of CrPC flows from Article 21 of Constitution of India, regulating the liberty of the individual, mandate of the same has to be followed strictly.

8. In view of the discussions made hereinabove, besides the fact that the complaint filed under Section 138 of Negotiable Instruments Act, 1881 itself stands withdrawn in view of the compromise arrived at between the petitioner and respondent No.2 , the order dated 23.12.2021 declaring the petitioner as proclaimed person as well as all other consequential proceedings arising therefrom including the FIR No.47 dated 14.02.2022 registered under Section 174-A IPC, P.S. Civil Lines, Jind are hereby quashed.

9. The aforesaid order however, shall be subject to payment of costs of Rs.15,000/- to be deposited with District Legal Services Authority, Jind within 15 days from today.

13.02.2024
Tejwinder

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No

